

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ROBERT WALLACE REEVES,
ELISEABITH SPHUAINI, and
SHELTON REEVES,

Plaintiffs,

v.

No. 1:22-cv-00369-KK

POPE AGUSTINE OF ROME,
MEATHODIST CATHERAL OF ASTERDAM, and
BABIST CUTHERAL OF NOTETER DOM,

Defendants.

MEMORANDUM OPINION AND ORDER
GRANTING MOTION TO PROCEED IN FORMA PAUPERIS

THIS MATTER comes before the Court on *pro se* Plaintiff Robert Wallace Reeves' Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 2, filed May 12, 2022 ("Application")

The statute for proceedings *in forma pauperis*, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

When a district court receives an application for leave to proceed in forma pauperis, it should examine the papers and determine if the requirements of [28 U.S.C.] § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case[.]

Menefee v. Werholtz, 368 Fed.Appx. 879, 884 (10th Cir. 2010) (citing *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962). “[A]n application to proceed *in forma pauperis* should be evaluated in light of the applicant's present financial status.” *Scherer v. Kansas*, 263 Fed.Appx. 667, 669

(10th Cir. 2008) (citing *Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir.1988)). “The statute [allowing a litigant to proceed in forma pauperis] was intended for the benefit of those too poor to pay or give security for costs....” See *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 344 (1948). While a litigant need not be “absolutely destitute,” “an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life.” *Id.* at 339.

Plaintiff filed an Application to proceed in forma pauperis and signed an affidavit stating he is unable to pay the costs of these proceedings. Plaintiff did not fill out the remainder of the Application; instead he wrote "Nothing has change sceence last complaint." [sic] Application at 2. Plaintiff apparently refers to his Motion to proceed in forma Pauperis and his Supplement filed in another case. See Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 4, filed May 10, 2022 ("Motion"), and Plaintiff's Supplemental Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 6, filed May 12, 2022 ("Supplement"), in *Reeves v. Reeves*, No. 1:22-cv-00365-JFR ("*Reeves I*"). The Court will consider Plaintiff's Motion to proceed in forma Pauperis and his Supplement filed in *Reeves I* this one time only. Plaintiff must file a properly completed "Application to Proceed in District Court Without Prepaying Fees or Costs (Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form))" in any cases Plaintiff files in the future.

Plaintiff signed a declaration (in his Motion) and an affidavit (in his Supplement) declaring that he is unable to pay the costs of these proceedings and indicated that he is unemployed. See Motion at 1, in *Reeves I*. The Court disregards those portions of Plaintiff's Supplement that indicate his income is several hundred "buzillion" dollars because his Amended Complaint in *Reeves I* indicates Plaintiff is "homeless." Supplement at 1, in *Reeves I*; Plaintiff's

Amended Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 at 1, Doc. 5, filed May 12, 2022, in *Reeves I*. The Court grants Plaintiff's Application because he signed an affidavit declaring that he is unable to pay the costs of these proceedings and because Plaintiff is unemployed and homeless.

IT IS ORDERED that Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 2, filed May 12, 2022, is **GRANTED**.



KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE